

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
CIVIL CASE NO. 2:12-cv-00068-MR-DLH**

DAVID WAYNE ALLEN,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER OF REMAND</u>
)	
CAROLYN W. COLVIN, Acting)	
Commissioner of Social Security,)	
)	
Defendant.)	
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THIS MATTER is before the Court on the Defendant's Agreed Motion for Entry of Judgment under Sentence Four of 42 U.S.C. § 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 16].

Sentence four of 42 U.S.C. § 405(g) provides, in pertinent part, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The Defendant here has moved for reversal of the decision and for remand of this case for further administrative proceedings.

The Court finds that remand is appropriate. See Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991). Upon remand to the Commissioner, the Appeals Council shall instruct the Administrative Law Judge to further evaluate the severity of the Plaintiff's medically determinable impairment of esophageal spasms, and in so doing, if necessary, obtain medical expert evidence to clarify the nature, severity, and functional limitations of such impairment; further consider the Plaintiff's residual functional capacity, and in so doing, further evaluate the treating, non-treating, and non-examining opinion evidence of record, indicating the weight assigned such opinion evidence; and, if warranted, obtain supplemental vocational expert evidence to support the Plaintiff's ability to perform past relevant work or other jobs that exist in significant numbers in the national economy.

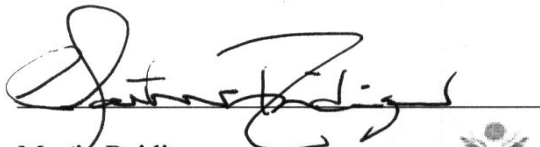
IT IS, THEREFORE, ORDERED that the Defendant's Agreed Motion for Entry of Judgment under Sentence Four of 42 U.S.C. § 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 16] is **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and this case is hereby **REMANDED** for further administrative proceedings, consistent with this Order.

The Clerk of Court shall enter a separate Judgment of Remand simultaneously herewith, thereby closing the case.

IT IS SO ORDERED.

Signed: May 22, 2013


Martin Reidinger
United States District Judge

